

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SENATE BILL 1019

AN ACT

AMENDING SECTIONS 33-1243, 33-1248, 33-1256, 33-1804, 33-1807 AND 33-1813,
ARIZONA REVISED STATUTES; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1243, Arizona Revised Statutes, is amended to
3 read:

4 33-1243. Board of directors and officers: conflict: powers:
5 limitations: removal: annual audit: applicability

6 A. Except as provided in the declaration, the bylaws, subsection B or
7 other provisions of this chapter, the board of directors may act in all
8 instances on behalf of the association.

9 B. The board of directors shall not act on behalf of the association
10 to amend the declaration, terminate the condominium, elect members of the
11 board of directors or determine the qualifications, powers and duties or
12 terms of office of board of directors members. The board of directors may
13 fill vacancies in its membership for the unexpired portion of any term.

14 C. If any contract, decision or other action for compensation taken by
15 or on behalf of the board of directors would benefit any member of the board
16 of directors or any person who is a parent, grandparent, spouse, child or
17 sibling of a member of the board of directors or a parent or spouse of any of
18 those persons, that member of the board of directors shall declare a conflict
19 of interest for that issue. The member shall declare the conflict in an open
20 meeting of the board before the board discusses or takes action on that issue
21 and that member may then vote on that issue. Any contract entered into in
22 violation of this subsection is void and unenforceable.

23 D. Except as provided in the declaration, within thirty days after
24 adoption of any proposed budget for the condominium, the board of directors
25 shall provide a summary of the budget to all the unit owners. Unless the
26 board of directors is expressly authorized in the declaration to adopt and
27 amend budgets from time to time, any budget or amendment shall be ratified by
28 the unit owners in accordance with the procedures set forth in this
29 subsection. If ratification is required, the board of directors shall set a
30 date for a meeting of the unit owners to consider ratification of the budget
31 not fewer than fourteen nor more than thirty days after mailing of the
32 summary. Unless at that meeting a majority of all the unit owners or any
33 larger vote specified in the declaration rejects the budget, the budget is
34 ratified, whether or not a quorum is present. If the proposed budget is
35 rejected, the periodic budget last ratified by the unit owners shall be
36 continued until such time as the unit owners ratify a subsequent budget
37 proposed by the board of directors.

38 E. The declaration may provide for a period of declarant control of
39 the association, during which period a declarant or persons designated by the
40 declarant may appoint and remove the officers and members of the board of
41 directors. Regardless of the period provided in the declaration, a period of
42 declarant control terminates no later than the earlier of:

43 1. Ninety days after conveyance of seventy-five per cent of the units
44 which may be created to unit owners other than a declarant.

1 2. Four years after all declarants have ceased to offer units for sale
2 in the ordinary course of business.

3 F. A declarant may voluntarily surrender the right to appoint and
4 remove officers and members of the board of directors before termination of
5 the period prescribed in subsection E, but in that event the declarant may
6 require, for the duration of the period of declarant control, that specified
7 actions of the association or board of directors, as described in a recorded
8 instrument executed by the declarant, be approved by the declarant before
9 they become effective.

10 G. Not later than the termination of any period of declarant control
11 the unit owners shall elect a board of directors of at least three members,
12 at least a majority of whom must be unit owners. The board of directors
13 shall elect the officers. The board members and officers shall take office
14 upon election.

15 H. Notwithstanding any provision of the declaration or bylaws to the
16 contrary, the unit owners, by a majority vote of members entitled to vote and
17 voting on the matter at a meeting of the members called pursuant to this
18 section at which a quorum is present, may remove any member of the board of
19 directors with or without cause, other than a member appointed by the
20 declarant. For purposes of calling for removal of a member of the board of
21 directors, other than a member appointed by the declarant, the following
22 apply:

23 1. In an association with one thousand or fewer members, on receipt of
24 a petition that calls for removal of a member of the board of directors and
25 that is signed by the number of persons who are entitled to cast at least
26 twenty-five per cent of the votes in the association or one hundred votes in
27 the association, whichever is less, the board shall call and provide written
28 notice of a special meeting of the association as prescribed by section
29 33-1248, subsection B.

30 2. Notwithstanding section 33-1248, subsection B, in an association
31 with more than one thousand members, on receipt of a petition that calls for
32 removal of a member of the board of directors and that is signed by the
33 number of persons who are entitled to cast at least ten per cent of the votes
34 in the association or one thousand votes in the association, whichever is
35 less, the board shall call and provide written notice of a special meeting of
36 the association. The board shall provide written notice of a special meeting
37 as prescribed by section 33-1248, subsection B.

38 3. The special meeting shall be called, noticed and held within thirty
39 days after receipt of the petition.

40 4. For purposes of a special meeting called pursuant to this
41 subsection, a quorum is present if the number of owners to whom at least
42 twenty per cent of the votes or one thousand votes, whichever is less, are
43 allocated is present at the meeting in person or as otherwise permitted by
44 law.

1 5. If a civil action is filed regarding the removal of a board member,
2 the prevailing party in the civil action shall be awarded its reasonable
3 attorney fees and costs.

4 6. The board of directors shall retain all documents and other records
5 relating to the proposed removal of the member of the board of directors for
6 at least one year after the date of the special meeting and shall permit
7 members to inspect those documents and records pursuant to section 33-1258.

8 7. A petition that calls for the removal of the same member of the
9 board of directors shall not be submitted more than once during each term of
10 office for that member.

11 8. A MEMBER WHO IS DELINQUENT IN PAYMENT OF MONETARY PENALTIES SHALL
12 NOT BE BARRED FROM SIGNING A PETITION THAT CALLS FOR REMOVAL OF A BOARD
13 MEMBER.

14 I. For an association in which board members are elected from
15 separately designated voting districts, a member of the board of directors,
16 other than a member appointed by the declarant, may be removed only by a vote
17 of the members from that voting district, and only the members from that
18 voting district are eligible to vote on the matter or be counted for purposes
19 of determining a quorum.

20 J. Unless any provision in the condominium documents requires an
21 annual audit by a certified public accountant, the board of directors shall
22 provide for an annual financial audit, review or compilation of the
23 association. The audit, review or compilation shall be completed no later
24 than one hundred eighty days after the end of the association's fiscal year
25 and shall be made available upon request to the unit owners within thirty
26 days after its completion.

27 K. This section does not apply to timeshare plans or associations, or
28 the period of declarant control under timeshare instruments, that are subject
29 to chapter 20 of this title.

30 Sec. 2. Section 33-1248, Arizona Revised Statutes, is amended to read:

31 33-1248. Open meetings; exceptions

32 A. Notwithstanding any provision in the declaration, bylaws or other
33 documents to the contrary, all meetings of the association and board of
34 directors are open to all members of the association or any person designated
35 by a member in writing as the member's representative and all members or
36 designated representatives so desiring shall be permitted to attend and speak
37 at an appropriate time during the deliberations and proceedings. The board
38 may place reasonable time restrictions on those persons speaking during the
39 meeting but shall permit a member or a member's designated representative to
40 speak **ONCE AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT** before
41 the board takes formal action on ~~an~~ **THAT** item ~~under discussion~~ in addition to
42 any other opportunities to speak. The board shall provide for a reasonable
43 number of persons to speak on each side of an issue. Any portion of a
44 meeting may be closed only if that portion of the meeting is limited to
45 consideration of one or more of the following:

1 1. Legal advice from an attorney for the board or the association. On
2 final resolution of any matter for which the board received legal advice or
3 that concerned pending or contemplated litigation, the board may disclose
4 information about that matter in an open meeting except for matters that are
5 required to remain confidential by the terms of a settlement agreement or
6 judgment.

7 2. Pending or contemplated litigation.

8 3. Personal, health or financial information about an individual
9 member of the association, an individual employee of the association or an
10 individual employee of a contractor for the association, including records of
11 the association directly related to the personal, health or financial
12 information about an individual member of the association, an individual
13 employee of the association or an individual employee of a contractor for the
14 association.

15 4. Matters relating to the job performance of, compensation of, health
16 records of or specific complaints against an individual employee of the
17 association or an individual employee of a contractor of the association who
18 works under the direction of the association.

19 5. DISCUSSION OF UNIT OWNER APPEALS OF VIOLATIONS CITED OR PENALTIES
20 IMPOSED BY THE ASSOCIATION EXCEPT ON REQUEST OF AN AFFECTED UNIT OWNER.

21 B. Notwithstanding any provision in the condominium documents, all
22 meetings of the association and the board shall be held in this state. A
23 meeting of the association shall be held at least once each year. Special
24 meetings of the association may be called by the president, by a majority of
25 the board of directors or by unit owners having at least twenty-five per
26 cent, or any lower percentage specified in the bylaws, of the votes in the
27 association. Unless otherwise provided in the articles or the bylaws of the
28 association, not fewer than ten nor more than fifty days in advance of any
29 meeting of the unit owners, the secretary shall cause notice to be hand
30 delivered or sent prepaid by United States mail to the mailing address of
31 each unit or to any other mailing address designated in writing by the unit
32 owner. The notice of any meeting of the unit owners shall state the time and
33 place of the meeting. The notice of any special meeting of the unit owners
34 shall also state the purpose for which the meeting is called, including the
35 general nature of any proposed amendment to the declaration or bylaws, any
36 changes in assessments that require approval of the unit owners and any
37 proposal to remove a director or officer. The failure of any unit owner to
38 receive actual notice of a meeting of the unit owners does not affect the
39 validity of any action taken at that meeting.

40 C. ~~Unless otherwise provided in the articles or bylaws of the~~
41 ~~association~~ NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
42 CONDOMINIUM DOCUMENTS, for meetings of the board of directors that are held
43 after the termination of declarant control of the association, notice to unit
44 owners of meetings of the board of directors shall be given at least
45 forty-eight hours in advance of the meeting by newsletter, conspicuous

1 posting or any other reasonable means as determined by the board of
2 directors. An affidavit of notice by an officer of the association is prima
3 facie evidence that notice was given as prescribed by this section. Notice
4 to unit owners of meetings of the board of directors is not required if
5 emergency circumstances require action by the board before notice can be
6 given. Any notice of a board meeting shall state the time and place of the
7 meeting. The failure of any unit owner to receive actual notice of a meeting
8 of the board of directors does not affect the validity of any action taken at
9 that meeting.

10 D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
11 CONDOMINIUM DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS THAT ARE HELD
12 AFTER THE TERMINATION OF DECLARANT CONTROL OF THE ASSOCIATION, ALL OF THE
13 FOLLOWING APPLY:

14 1. THE AGENDA SHALL BE AVAILABLE TO ALL UNIT OWNERS ATTENDING ANY
15 MEETING OF THE BOARD OF DIRECTORS.

16 2. THE BOARD OF DIRECTORS MAY ADJOURN INTO A CLOSED SESSION ON A VOTE
17 OF THE BOARD OF DIRECTORS AND AFTER ANNOUNCING THE REASON FOR THE CLOSED
18 SESSION AT AN OPEN SESSION OF A MEETING OF THE BOARD. A CLOSED SESSION OF
19 THE BOARD OF DIRECTORS MAY BE HELD WITHOUT FIRST MEETING IN AN OPEN SESSION
20 IF NOTICE IS GIVEN AS PRESCRIBED BY THIS SECTION. THE BOARD OF DIRECTORS
21 SHALL DISCLOSE AT AN OPEN MEETING A DECISION TO BECOME A PARTY TO A LAWSUIT.
22 THIS SECTION DOES NOT APPLY TO AN ACTION FILED PURSUANT TO TITLE 12, CHAPTER
23 8, ARTICLE 14.

24 3. AN EMERGENCY MEETING OF THE BOARD OF DIRECTORS MAY BE CALLED TO
25 DISCUSS BUSINESS OR TAKE ACTION THAT CANNOT BE DELAYED UNTIL THE NEXT
26 REGULARLY SCHEDULED BOARD MEETING. THE MINUTES OF THE EMERGENCY MEETING
27 SHALL STATE THE REASON NECESSITATING THE EMERGENCY MEETING. THE MINUTES OF
28 THE EMERGENCY MEETING SHALL BE READ AND APPROVED AT THE NEXT REGULARLY
29 SCHEDULED MEETING OF THE BOARD OF DIRECTORS.

30 4. PURSUANT TO SECTION 10-3821, THE BOARD OF DIRECTORS MAY TAKE ACTION
31 WITHOUT A MEETING. IF THE BOARD TAKES ACTION WITHOUT A MEETING, A STATEMENT
32 SHALL BE PREPARED STATING THAT AN ACTION HAS BEEN TAKEN WITHOUT A MEETING,
33 THE REASON FOR TAKING THE ACTION AND THE ACTION TAKEN. THIS STATEMENT SHALL
34 BE READ INTO THE MINUTES OF THE NEXT REGULARLY SCHEDULED MEETING OF THE BOARD
35 OF DIRECTORS. THE PROCEDURE FOR TAKING ACTION WITHOUT A MEETING SHALL BE
36 USED ONLY WHEN EMERGENCY CIRCUMSTANCES WARRANT A MEETING AND THERE IS NOT
37 SUFFICIENT TIME TO NOTICE A MEETING, OR WHEN A QUORUM OF THE BOARD IS
38 IMPOSSIBLE TO OBTAIN AND NECESSARY BUSINESS MUST BE UNDERTAKEN. THIS
39 PROCEDURE SHALL NOT BE USED TO TAKE THE PLACE OF CONDUCTING BUSINESS AT A
40 REGULARLY SCHEDULED BOARD MEETING.

41 5. MEETINGS OF THE ASSOCIATION OR THE BOARD OF DIRECTORS, OTHER THAN
42 CLOSED SESSIONS, MAY BE RECORDED BY MEANS OF A VIDEO CAMERA OR TAPE RECORDER
43 OR ANY OTHER MEANS OF AUDIO REPRODUCTION ONLY IF THE PARTICIPANTS ARE
44 NOTIFIED AND THERE IS NO ACTIVE INTERFERENCE WITH THE CONDUCT OF THE MEETING.

1 6. OTHER THAN ACTIONS ALLOWED BY PARAGRAPH 4 OF THIS SUBSECTION, A
2 QUORUM OF THE BOARD OF DIRECTORS SHALL NOT MEET, CONDUCT BUSINESS OR MAKE ANY
3 DECISIONS BY MEANS OF ELECTRONIC MAIL COMMUNICATIONS.

4 7. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE
5 CONFERENCE IF A SPEAKERPHONE IS AVAILABLE IN THE MEETING ROOM THAT ALLOWS
6 BOARD MEMBERS AND UNIT OWNERS TO HEAR ALL PARTIES WHO ARE SPEAKING DURING THE
7 MEETING.

8 8. ANY QUORUM OF THE BOARD THAT MEETS INFORMALLY TO DISCUSS
9 ASSOCIATION BUSINESS, INCLUDING WORKSHOPS, SHALL COMPLY WITH THE OPEN MEETING
10 AND NOTICE PROVISIONS OF THIS SECTION WITHOUT REGARD TO WHETHER THE BOARD
11 VOTES OR TAKES ANY ACTION ON ANY MATTER AT THAT INFORMAL MEETING.

12 ~~D.~~ E. This section does not apply to timeshare plans or associations
13 that are subject to chapter 20 of this title.

14 Sec. 3. Section 33-1256, Arizona Revised Statutes, is amended to read:

15 33-1256. Lien for assessments; priority; mechanics' and
16 materialmen's liens; applicability

17 A. The association has a lien on a unit for any assessment levied
18 against that unit from the time the assessment becomes due. The
19 association's lien for assessments, for charges for late payment of those
20 assessments, for reasonable collection fees and for reasonable attorney fees
21 and costs incurred with respect to those assessments may be foreclosed in the
22 same manner as a mortgage on real estate but may be foreclosed only if the
23 owner has been delinquent in the payment of monies secured by the lien,
24 excluding reasonable collection fees, reasonable attorney fees and charges
25 for late payment of and costs incurred with respect to those assessments, for
26 a period of one year or in the amount of one thousand two hundred dollars or
27 more, whichever occurs first. A COURT MAY LIMIT THE AMOUNT OF ATTORNEY FEES
28 INCLUDED IN THE ASSOCIATION'S LIEN. Fees, charges, late charges, monetary
29 penalties and interest charged pursuant to section 33-1242, subsection A,
30 paragraphs 10, 11 and 12, other than charges for late payment of assessments,
31 are not enforceable as assessments under this section. If an assessment is
32 payable in installments, the full amount of the assessment is a lien from the
33 time the first installment of the assessment becomes due. The association
34 has a lien for fees, charges, late charges, other than charges for late
35 payment of assessments, monetary penalties or interest charged pursuant to
36 section 33-1242, subsection A, paragraphs 10, 11 and 12 after the entry of a
37 judgment in a civil suit for those fees, charges, late charges, monetary
38 penalties or interest from a court of competent jurisdiction and the
39 recording of that judgment in the office of the county recorder as otherwise
40 provided by law. The association's lien for monies other than for
41 assessments, for charges for late payment of those assessments, for
42 reasonable collection fees and for reasonable attorney fees and costs
43 incurred with respect to those assessments may not be foreclosed and is
44 effective only on conveyance of any interest in the real property.

1 B. A lien for assessments, for charges for late payment of those
2 assessments, for reasonable collection fees and for reasonable attorney fees
3 and costs incurred with respect to those assessments under this section is
4 prior to all other liens, interests and encumbrances on a unit except:

5 1. Liens and encumbrances recorded before the recordation of the
6 declaration.

7 2. A recorded first mortgage on the unit, a seller's interest in a
8 first contract for sale pursuant to chapter 6, article 3 of this title on the
9 unit recorded prior to the lien arising pursuant to subsection A of this
10 section or a recorded first deed of trust on the unit.

11 3. Liens for real estate taxes and other governmental assessments or
12 charges against the unit.

13 C. Subsection B of this section does not affect the priority of
14 mechanics' or materialmen's liens or the priority of liens for other
15 assessments made by the association. The lien under this section is not
16 subject to chapter 8 of this title.

17 D. Unless the declaration otherwise provides, if two or more
18 associations have liens for assessments created at any time on the same real
19 estate, those liens have equal priority.

20 E. Recording of the declaration constitutes record notice and
21 perfection of the lien for assessments, for charges for late payment of those
22 assessments, for reasonable collection fees and for reasonable attorney fees
23 and costs incurred with respect to those assessments. Further recordation of
24 any claim of lien for assessments under this section is not required.

25 F. A lien for unpaid assessments is extinguished unless proceedings to
26 enforce the lien are instituted within three years after the full amount of
27 the assessments becomes due.

28 G. This section does not prohibit actions to recover sums for which
29 subsection A of this section creates a lien or does not prohibit an
30 association from taking a deed in lieu of foreclosure.

31 H. A judgment or decree in any action brought under this section shall
32 include costs and reasonable attorney fees for the prevailing party.

33 I. The association on written request shall furnish to a lienholder,
34 escrow agent, unit owner or person designated by a unit owner a statement
35 setting forth the amount of unpaid assessments against the unit. The
36 statement shall be furnished within fifteen days after receipt of the request
37 and the statement is binding on the association, the board of directors and
38 every unit owner if the statement is requested by an escrow agency that is
39 licensed pursuant to title 6, chapter 7. Failure to provide the statement to
40 the escrow agent within the time provided for in this subsection shall
41 extinguish any lien for any unpaid assessment then due.

42 J. The association shall record in the office of the county recorder
43 in the county in which the condominium is located a notice stating the name
44 of the association or designated agent or management company for the
45 association, the address for the association and the telephone number of the

1 association or its designated agent or management company. The notice shall
2 include the name of the condominium community, the date of the recording and
3 the recorded instrument number or book and page for the main document that
4 constitutes the declaration. If an association's address, designated agent
5 or management company changes, the association shall amend its notice or
6 record a new notice within ninety days after the change.

7 K. Notwithstanding any provision in the condominium documents or in
8 any contract between the association and a management company, unless the
9 member directs otherwise, all payments received on a member's account shall
10 be applied first to any unpaid assessments, for unpaid charges for late
11 payment of those assessments, for reasonable collection fees and for unpaid
12 attorney fees and costs incurred with respect to those assessments, in that
13 order, with any remaining amounts applied next to other unpaid fees, charges
14 and monetary penalties or interest and late charges on any of those amounts.

15 L. This section does not apply to timeshare plans or associations that
16 are subject to chapter 20 of this title.

17 Sec. 4. Section 33-1804, Arizona Revised Statutes, is amended to read:
18 33-1804. Open meetings; exceptions

19 A. Notwithstanding any provision in the declaration, bylaws or other
20 documents to the contrary, all meetings of the association and board of
21 directors are open to all members of the association or any person designated
22 by a member in writing as the member's representative and all members or
23 designated representatives so desiring shall be permitted to attend and speak
24 at an appropriate time during the deliberations and proceedings. The board
25 may place reasonable time restrictions on those persons speaking during the
26 meeting but shall permit a member or member's designated representative to
27 speak ONCE AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT before
28 the board takes formal action on ~~an~~ THAT item ~~under discussion~~ in addition to
29 any other opportunities to speak. The board shall provide for a reasonable
30 number of persons to speak on each side of an issue. Any portion of a
31 meeting may be closed only if that closed portion of the meeting is limited
32 to consideration of one or more of the following:

33 1. Legal advice from an attorney for the board or the association. On
34 final resolution of any matter for which the board received legal advice or
35 that concerned pending or contemplated litigation, the board may disclose
36 information about that matter in an open meeting except for matters that are
37 required to remain confidential by the terms of a settlement agreement or
38 judgment.

39 2. Pending or contemplated litigation.

40 3. Personal, health or financial information about an individual
41 member of the association, an individual employee of the association or an
42 individual employee of a contractor for the association, including records of
43 the association directly related to the personal, health or financial
44 information about an individual member of the association, an individual

1 employee of the association or an individual employee of a contractor for the
2 association.

3 4. Matters relating to the job performance of, compensation of, health
4 records of or specific complaints against an individual employee of the
5 association or an individual employee of a contractor of the association who
6 works under the direction of the association.

7 5. DISCUSSION OF MEMBER APPEALS OF VIOLATIONS CITED OR PENALTIES
8 IMPOSED BY THE ASSOCIATION EXCEPT ON REQUEST OF AN AFFECTED UNIT OWNER.

9 B. Notwithstanding any provision in the community documents, all
10 meetings of the association and the board shall be held in this state. A
11 meeting of the association shall be held at least once each year. Special
12 meetings of the association may be called by the president, by a majority of
13 the board of directors or by members having at least twenty-five per cent, or
14 any lower percentage specified in the bylaws, of the votes in the
15 association. Unless otherwise provided in the articles or bylaws of the
16 association, not fewer than ten nor more than fifty days in advance of any
17 meeting of the members the secretary shall cause notice to be hand-delivered
18 or sent prepaid by United States mail to the mailing address for each lot,
19 parcel or unit owner or to any other mailing address designated in writing by
20 a member. The notice shall state the time and place of the meeting. A
21 notice of any special meeting of the members shall also state the purpose for
22 which the meeting is called, including the general nature of any proposed
23 amendment to the declaration or bylaws, changes in assessments that require
24 approval of the members and any proposal to remove a director or an officer.
25 The failure of any member to receive actual notice of a meeting of the
26 members does not affect the validity of any action taken at that meeting.

27 C. ~~Unless otherwise provided in the articles or bylaws of the~~
28 ~~association~~ NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
29 COMMUNITY DOCUMENTS, for meetings of the board of directors that are held
30 after the termination of declarant control of the association, notice to
31 members of meetings of the board of directors shall be given at least
32 forty-eight hours in advance of the meeting by newsletter, conspicuous
33 posting or any other reasonable means as determined by the board of
34 directors. An affidavit of notice by an officer of the corporation is prima
35 facie evidence that notice was given as prescribed by this section. Notice
36 to members of meetings of the board of directors is not required if emergency
37 circumstances require action by the board before notice can be given. Any
38 notice of a board meeting shall state the time and place of the meeting. The
39 failure of any member to receive actual notice of a meeting of the board of
40 directors does not affect the validity of any action taken at that meeting.

41 D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
42 COMMUNITY DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS THAT ARE HELD
43 AFTER THE TERMINATION OF DECLARANT CONTROL OF THE ASSOCIATION, ALL OF THE
44 FOLLOWING APPLY:

1 1. THE AGENDA SHALL BE AVAILABLE TO ALL MEMBERS ATTENDING ANY MEETING
2 OF THE BOARD OF DIRECTORS.

3 2. THE BOARD OF DIRECTORS MAY ADJOURN INTO A CLOSED SESSION ON A VOTE
4 OF THE BOARD OF DIRECTORS AND AFTER ANNOUNCING THE REASON FOR THE CLOSED
5 SESSION AT AN OPEN SESSION OF A MEETING OF THE BOARD. A CLOSED SESSION OF
6 THE BOARD OF DIRECTORS MAY BE HELD WITHOUT FIRST MEETING IN AN OPEN SESSION
7 IF NOTICE IS GIVEN AS PRESCRIBED BY THIS SECTION. THE BOARD OF DIRECTORS
8 SHALL DISCLOSE AT AN OPEN MEETING A DECISION TO BECOME A PARTY TO A LAWSUIT.
9 THIS SECTION DOES NOT APPLY TO AN ACTION FILED PURSUANT TO TITLE 12, CHAPTER
10 8, ARTICLE 14.

11 3. AN EMERGENCY MEETING OF THE BOARD OF DIRECTORS MAY BE CALLED TO
12 DISCUSS BUSINESS OR TAKE ACTION THAT CANNOT BE DELAYED UNTIL THE NEXT
13 REGULARLY SCHEDULED BOARD MEETING. THE MINUTES OF THE EMERGENCY MEETING
14 SHALL STATE THE REASON NECESSITATING THE EMERGENCY MEETING. THE MINUTES OF
15 THE EMERGENCY MEETING SHALL BE READ AND APPROVED AT THE NEXT REGULARLY
16 SCHEDULED MEETING OF THE BOARD OF DIRECTORS.

17 4. PURSUANT TO SECTION 10-3821, THE BOARD OF DIRECTORS MAY TAKE ACTION
18 WITHOUT A MEETING. IF THE BOARD TAKES ACTION WITHOUT A MEETING, A STATEMENT
19 SHALL BE PREPARED STATING THAT AN ACTION HAS BEEN TAKEN WITHOUT A MEETING,
20 THE REASON FOR TAKING THE ACTION AND THE ACTION TAKEN. THIS STATEMENT SHALL
21 BE READ INTO THE MINUTES OF THE NEXT REGULARLY SCHEDULED MEETING OF THE BOARD
22 OF DIRECTORS. THE PROCEDURE FOR TAKING ACTION WITHOUT A MEETING SHALL BE
23 USED ONLY WHEN EMERGENCY CIRCUMSTANCES WARRANT A MEETING AND THERE IS NOT
24 SUFFICIENT TIME TO NOTICE A MEETING, OR WHEN A QUORUM OF THE BOARD IS
25 IMPOSSIBLE TO OBTAIN AND NECESSARY BUSINESS MUST BE UNDERTAKEN. THIS
26 PROCEDURE SHALL NOT BE USED TO TAKE THE PLACE OF CONDUCTING BUSINESS AT A
27 REGULARLY SCHEDULED BOARD MEETING.

28 5. MEETINGS OF THE ASSOCIATION OR THE BOARD OF DIRECTORS, OTHER THAN
29 CLOSED SESSIONS, MAY BE RECORDED BY MEANS OF A VIDEO CAMERA OR TAPE RECORDER
30 OR ANY OTHER MEANS OF AUDIO REPRODUCTION ONLY IF THE PARTICIPANTS ARE
31 NOTIFIED AND THERE IS NO ACTIVE INTERFERENCE WITH THE CONDUCT OF THE MEETING.

32 6. OTHER THAN ACTIONS ALLOWED BY PARAGRAPH 4 OF THIS SUBSECTION, A
33 QUORUM OF THE BOARD OF DIRECTORS SHALL NOT MEET, CONDUCT BUSINESS OR MAKE ANY
34 DECISIONS BY MEANS OF ELECTRONIC MAIL COMMUNICATIONS.

35 7. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE
36 CONFERENCE IF A SPEAKERPHONE IS AVAILABLE IN THE MEETING ROOM THAT ALLOWS
37 BOARD MEMBERS AND MEMBERS OF THE ASSOCIATION TO HEAR ALL PARTIES WHO ARE
38 SPEAKING DURING THE MEETING.

39 8. ANY QUORUM OF THE BOARD THAT MEETS INFORMALLY TO DISCUSS
40 ASSOCIATION BUSINESS, INCLUDING WORKSHOPS, SHALL COMPLY WITH THE OPEN MEETING
41 AND NOTICE PROVISIONS OF THIS SECTION WITHOUT REGARD TO WHETHER THE BOARD
42 VOTES OR TAKES ANY ACTION ON ANY MATTER AT THAT INFORMAL MEETING.

1 Sec. 5. Section 33-1807, Arizona Revised Statutes, is amended to read:
2 33-1807. Lien for assessments; priority; mechanics' and
3 materialmen's liens

4 A. The association has a lien on a unit for any assessment levied
5 against that unit from the time the assessment becomes due. The
6 association's lien for assessments, for charges for late payment of those
7 assessments, for reasonable collection fees and for reasonable attorney fees
8 and costs incurred with respect to those assessments may be foreclosed in the
9 same manner as a mortgage on real estate but may be foreclosed only if the
10 owner has been delinquent in the payment of monies secured by the lien,
11 excluding reasonable collection fees, reasonable attorney fees and charges
12 for late payment of and costs incurred with respect to those assessments, for
13 a period of one year or in the amount of one thousand two hundred dollars or
14 more, whichever occurs first. A COURT MAY LIMIT THE AMOUNT OF ATTORNEY FEES
15 INCLUDED IN THE ASSOCIATION'S LIEN. Fees, charges, late charges, monetary
16 penalties and interest charged pursuant to section 33-1803, other than
17 charges for late payment of assessments are not enforceable as assessments
18 under this section. If an assessment is payable in installments, the full
19 amount of the assessment is a lien from the time the first installment of the
20 assessment becomes due. The association has a lien for fees, charges, late
21 charges, other than charges for late payment of assessments, monetary
22 penalties or interest charged pursuant to section 33-1803 after the entry of
23 a judgment in a civil suit for those fees, charges, late charges, monetary
24 penalties or interest from a court of competent jurisdiction and the
25 recording of that judgment in the office of the county recorder as otherwise
26 provided by law. The association's lien for monies other than for
27 assessments, for charges for late payment of those assessments, for
28 reasonable collection fees and for reasonable attorney fees and costs
29 incurred with respect to those assessments may not be foreclosed and is
30 effective only on conveyance of any interest in the real property.

31 B. A lien for assessments, for charges for late payment of those
32 assessments, for reasonable collection fees and for reasonable attorney fees
33 and costs incurred with respect to those assessments under this section is
34 prior to all other liens, interests and encumbrances on a unit except:

35 1. Liens and encumbrances recorded before the recordation of the
36 declaration.

37 2. A recorded first mortgage on the unit, a seller's interest in a
38 first contract for sale pursuant to chapter 6, article 3 of this title on the
39 unit recorded prior to the lien arising pursuant to subsection A of this
40 section or a recorded first deed of trust on the unit.

41 3. Liens for real estate taxes and other governmental assessments or
42 charges against the unit.

1 C. Subsection B of this section does not affect the priority of
2 mechanics' or materialmen's liens or the priority of liens for other
3 assessments made by the association. The lien under this section is not
4 subject to chapter 8 of this title.

5 D. Unless the declaration otherwise provides, if two or more
6 associations have liens for assessments created at any time on the same real
7 estate those liens have equal priority.

8 E. Recording of the declaration constitutes record notice and
9 perfection of the lien for assessments, for charges for late payment of
10 assessments, for reasonable collection fees and for reasonable attorney fees
11 and costs incurred with respect to those assessments. Further recordation of
12 any claim of lien for assessments under this section is not required.

13 F. A lien for an unpaid assessment is extinguished unless proceedings
14 to enforce the lien are instituted within three years after the full amount
15 of the assessment becomes due.

16 G. This section does not prohibit:

17 1. Actions to recover amounts for which subsection A of this section
18 creates a lien.

19 2. An association from taking a deed in lieu of foreclosure.

20 H. A judgment or decree in any action brought under this section shall
21 include costs and reasonable attorney fees for the prevailing party.

22 I. On written request, the association shall furnish to a lienholder,
23 escrow agent, unit owner or person designated by a unit owner a statement
24 setting forth the amount of any unpaid assessment against the unit. The
25 association shall furnish the statement within fifteen days after receipt of
26 the request, and the statement is binding on the association, the board of
27 directors and every unit owner if the statement is requested by an escrow
28 agency that is licensed pursuant to title 6, chapter 7. Failure to provide
29 the statement to the escrow agent within the time provided for in this
30 subsection shall extinguish any lien for any unpaid assessment then due.

31 J. The association shall record in the office of the county recorder
32 in the county in which the planned community is located a notice stating the
33 name of the association or designated agent or management company for the
34 association, the address for the association and the telephone number of the
35 association or its designated agent or management company. The notice shall
36 include the name of the planned community, the date of the recording and the
37 recorded instrument number or book and page for the main document that
38 constitutes the declaration. If an association's address, designated agent
39 or management company changes, the association shall amend its notice or
40 record a new notice within ninety days after the change.

41 K. Notwithstanding any provision in the community documents or in any
42 contract between the association and a management company, unless the member
43 directs otherwise, all payments received on a member's account shall be
44 applied first to any unpaid assessments, for unpaid charges for late payment
45 of those assessments, for reasonable collection fees and for unpaid attorney

1 fees and costs incurred with respect to those assessments, in that order,
2 with any remaining amounts applied next to other unpaid fees, charges and
3 monetary penalties or interest and late charges on any of those amounts.

4 Sec. 6. Section 33-1813, Arizona Revised Statutes, is amended to read:

5 33-1813. Removal of board member: special meeting

6 A. Notwithstanding any provision of the declaration or bylaws to the
7 contrary, the members, by a majority vote of members entitled to vote and
8 voting on the matter at a meeting of the members called pursuant to this
9 section at which a quorum is present, may remove any member of the board of
10 directors with or without cause, other than a member appointed by the
11 declarant. For purposes of calling for removal of a member of the board of
12 directors, other than a member appointed by the declarant, the following
13 apply:

14 1. In an association with one thousand or fewer members, on receipt of
15 a petition that calls for removal of a member of the board of directors and
16 that is signed by the number of persons who are entitled to cast at least
17 twenty-five per cent of the votes in the association or one hundred votes in
18 the association, whichever is less, the board shall call and provide written
19 notice of a special meeting of the association as prescribed by section
20 33-1804, subsection B.

21 2. Notwithstanding section 33-1804, subsection B, in an association
22 with more than one thousand members, on receipt of a petition that calls for
23 removal of a member of the board of directors and that is signed by the
24 number of persons who are entitled to cast at least ten per cent of the votes
25 in the association or one thousand votes in the association, whichever is
26 less, the board shall call and provide written notice of a special meeting of
27 the association. The board shall provide written notice of a special meeting
28 as prescribed by section 33-1804, subsection B.

29 3. The special meeting shall be called, noticed and held within thirty
30 days after receipt of the petition.

31 4. For purposes of a special meeting called pursuant to this
32 subsection, a quorum is present if the number of owners to whom at least
33 twenty per cent of the votes or one thousand votes, whichever is less, are
34 allocated is present at the meeting in person or as otherwise permitted by
35 law.

36 5. If a civil action is filed regarding the removal of a board member,
37 the prevailing party in the civil action shall be awarded its reasonable
38 attorney fees and costs.

39 6. The board of directors shall retain all documents and other records
40 relating to the proposed removal of the member of the board of directors for
41 at least one year after the date of the special meeting and shall permit
42 members to inspect those documents and records pursuant to section 33-1805.

43 7. A petition that calls for the removal of the same member of the
44 board of directors shall not be submitted more than once during each term of
45 office for that member.

1 8. A MEMBER WHO IS DELINQUENT IN PAYMENT OF MONETARY PENALTIES SHALL
2 NOT BE BARRED FROM SIGNING A PETITION THAT CALLS FOR REMOVAL OF A BOARD
3 MEMBER.

4 B. For an association in which board members are elected from
5 separately designated voting districts, a member of the board of directors,
6 other than a member appointed by the declarant, may be removed only by a vote
7 of the members from that voting district, and only the members from that
8 voting district are eligible to vote on the matter or be counted for purposes
9 of determining a quorum.

10 Sec. 7. Declaration of policy; open meetings

11 It is the policy of this state as reflected in this act that all
12 meetings of a condominium or planned community homeowners' association,
13 whether meetings of the members or meetings of the board of directors of the
14 association, be conducted openly and that notices and agendas be provided for
15 those meetings that contain the information that is reasonably necessary to
16 inform the members of the matters to be discussed or decided and to ensure
17 that members have the ability to speak after discussion of agenda items, but
18 before a vote of the board of directors is taken. Toward this end, any
19 person or entity that is charged with the interpretation of these provisions
20 shall take into account this declaration of policy and shall construe any
21 provision of this act in favor of open meetings.